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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GUARRIELLO, JOHN J

ART UNIT PAPER NUMBER

1771

DATE MAILED: 12/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/641830 Applicant(s) Canstford et al.
 Examiner John Guarniello Group Art Unit 1991

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 10/9/2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-35 is/are pending in the application.
- Of the above claim(s) 10-26 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-9, 27-35 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1771

DETAILED ACTION

Election/Restriction

15. The Examiner acknowledges the affirmation of the Restriction requirement Group I, article claims 1-9, Group II, method claims 10-26 are withdrawn as to the non-elected invention. New claims 27-35 are directed to the article, Group I. Applicant's arguments regarding the traversal have been considered but claims 27-35 are drawn to a method which is independent and distinct, thus the Restriction is made final for reasons of record.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

17. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Art Unit: 1771

Claim Rejections - 35 USC § 112

18. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

19. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 34, line 2, it is not clear where "dye-assistant" is stated in claim 30, this appears to be a lack of clear antecedent basis to claim 1, it appears that the correction should be "a" **dye-assistant**.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1771

21. Claims 1-7, 27-33, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanhope et al. 5,527,597 in view of Cates et al. 4,981,488 and Johnson et al. 4,902,300.

Rejection is maintained and new claims 27-33 are directed to the same Group I, thus the rejection is applicable to these new claims as well.

Stanhope describes flame resistant fabric made from a plurality of warp fibers of a heat resistant material and a plurality of filler fibers, (see abstract; column 2, lines 51-67). Stanhope describes the warp yarns can be made from KEVLAR, corresponding to the para isomer of poly(p-phenyleneterephthalamide) which corresponds to para-aramid, or polyamide fiber, (column 4, lines 47-55). Stanhope describes other materials can be used such as rayon, acetate and others which can be made flame resistant, (column 4, lines 55-68). Stanhope describes dyeing of fabrics for the desired tint or hue, (column 6, lines 56-68). Stanhope describes a mixture or blend of cellulosic fibers with other flame resistant fibers, (column 4, lines 47-60).

Art Unit: 1771

Stanhope is silent about color printing in a pattern and flame proofing for materials that are not inherently flame resistant.

Cates describes aramid fabrics which are printed in a camouflage pattern, (column 1, lines 35-38). Cates describes a process of printing fabrics, (column 2, lines 64-68 and column 3, lines 1-14).

Johnson describes simultaneously dyed and flame retardant blends, (see abstract). Johnson describes fabric blends of synthetic and cellulosic materials, (column 1, lines 40-65). Johnson describes nylon, which is polyamide, cellulosic materials with flame retardants that improve the flame resistance of fabrics, (column 1, lines 40-65). Johnson describes cyclic phosphonates for imparting flame resistance to cellulose and are compatible with dye conditions, (column 2, lines 47-68).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the fabric of Stanhope with the flame retardant materials coated/treated cellulose and phosphonates of Johnson and the printing patterns of Cates motivated with the expectation that the

Art Unit: 1771

improved blend would be more flexible over conventional thermal resistant garments (column 4, lines 5-10), and have improved flame resistant and camouflage characteristics for the fabric.

Applicant's arguments regarding blend have been considered but they are not persuasive because '597 describes blend, (column 4, line 50, lines 55-58; column 5, lines 20-21).

22. Claims 1, 5-9, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanhope 5,527,597 in view of Johnson et al. 4,902,300 and Riggins et al. 4,898,596.

Rejection is maintained. New claim 35 is directed to essentially the same article as the claims of Group I.

The features of Stanhope and Johnson are set forth above. However, the patents are silent about the dye-assistent agent.

Riggins describes a dye-assistent agent which is stated as a diffusion promoter useful in aramid fiber fabric dyeing processes, (column 2, lines 45-68). Riggins describes CHP, N-cyclohexyl-2-pyrrolidone, (column 3, lines

Art Unit: 1771

50-51), is a diffusion promoter in the dyeing process which appears to correspond to the dye-assistent of the claimed invention

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the dyeing of the fabric of Stanhope with the dye-assistent agent (diffusion promoter) of Riggins motivated with the expectation that the improved blend would be more economically viable and have improved flame resistant characteristics for the fabric.

Applicant's arguments regarding combining the references since no blend is described have been considered but they are not deemed to be persuasive because '300 describes blend, (column 2, lines 45-46). Regarding the argument that flame retardant can be used is noted but '300 describes fire retardancy can be imparted, (column 2, lines 47-68).

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first

Art Unit: 1771

reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris , can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Art Unit: 1771

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

December 17, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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